

Message Text

UNCLASSIFIED

PAGE 01 STATE 037527
ORIGIN PM-04

INFO OCT-01 EA-09 ISO-00 NSC-05 SP-02 SS-15 L-03 CIAE-00
INR-07 NSAE-00 MC-02 ACDA-10 OMB-01 AID-05 IGA-02
TRSE-00 EUR-12 /078 R

DRAFTED BY PM/SAS: SWINSHIP:RS
APPROVED BY PM/SAS: STEPHEN WINSHIP
DOD/DSAA - MR. CROSSMAN
L/PM - MR. MICHEL
EUR/RPM - MR. REHFELD
EA/RA - COL. BAILEY

-----181548 095020 /53

R 181416Z FEB 77
FM SECSTATE WASHDC
TO AMEMBASSY CANBERRA
INFO AMEMBASSY WELLINGTON
CINCPAC
SECDEF

UNCLAS STATE 037527

E.O. 11652: N/A

TAGS: MASS, AS, US

SUBJECT: AUSTRALIAN STATUS UNDER FMS

REFS: (A) CANBERRA 9013 (NOTAL)
(B) CIRCULAR AIRGRAM 3590, DATED 20 JULY 76 TO POSTS
RE NEW LEGISLATION.

1. AUSTRALIAN SENSITIVITY TO ALLEGED "PREFERRED STATUS OF
NATO" (REF A) UNDER CURRENT ARMS EXPORT CONTROL ACT PRO-
VISIONS HAS SOME BASIS IN FACT, BUT UNDOUBTEDLY HAS BEEN
FED BY ONLY PARTIAL UNDERSTANDING OF PROVISIONS OF COMPLEX
LEGISLATION PASSED EARLIER THIS YEAR.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 STATE 037527

2. THE INTERNATIONAL SECURITY ASSISTANCE AND ARMS EXPORT
CONTROL ACT OF 1976 (REF B) CONTAINS FOUR RELEVANT SPECIFIC
PROVISIONS REGARDING NATO:

A. THE PRESIDENT IS AUTHORIZED TO REDUCE OR WAIVE CHARGES
FOR USE OF USG OWNED PLANT AND PRODUCTION EQUIPMENT AND/OR

RECOUPMENT OF RDT&E NONRECURRING COSTS IN THE CASE OF PARTICULAR SALES "THAT WOULD SIGNIFICANTLY ADVANCE USG INTERESTS IN NATO STANDARDIZATION." SAME AUTHORITY EXTENDS TO PARTICULAR CASES (NOT LIMITED TO NATO) "THAT WOULD SIGNIFICANTLY ADVANCE FOREIGN PROCUREMENT IN THE UNITED STATES UNDER COPRODUCTION ARRANGEMENTS," AECA SECTION 21(E).

B. THE PRESIDENT IS AUTHORIZED TO ENTER INTO NATO STANDARDIZATION AGREEMENTS FOR COOPERATIVE TRAINING ON A BILATERAL OR MULTILATERAL BASIS IF FINANCIAL PRINCIPLES ARE BASED ON RECIPROCITY. DIRECT COSTS MUST BE CHARGED, BUT INDIRECT, ADMINISTRATIVE AND CERTAIN BILLETING COSTS MAY BE EXCLUDED. AECA SECTION 21(G).

C. COMMERCIAL TECHNICAL ASSISTANCE OR MANUFACTURING LICENSING AGREEMENTS FOR THE MANUFACTURE ABROAD OF SIGNIFICANT COMBAT EQUIPMENT MUST BE SUBMITTED TO THE CONGRESS PRIOR TO APPROVAL, EXCEPT IN THE CASE OF NATO COUNTRIES, AECA SECTION 36(D).

D. SALES OF "MAJOR DEFENSE EQUIPMENT" COSTING DOLS 25 MILLION OR MORE MUST BE GOVERNMENT-TO-GOVERNMENT UNDER FOREIGN MILITARY SALES PROGRAM, EXCEPT THAT COMMERCIAL SALES OF SUCH EQUIPMENT (IN ANY AMOUNT) MAY BE LICENSED TO NATO COUNTRIES. AECA SECTION 38(B)(3).

3. SEVERAL FOREIGN COUNTRIES WHICH HAVE BEEN INFORMED OF THE NECESSITY TO SHIFT PURCHASES UNDER CONSIDERATION FROM COMMERCIAL TO FMS CHANNELS HAVE BEEN SENSITIVE TO NATO EXCEPTION.

UNCLASSIFIED

UNCLASSIFIED

PAGE 03 STATE 037527

4. UNDER EXISTING FMS PROGRAM, CONTRARY TO AUSTRALIAN UNDERSTANDING, THERE IS NO DIFFERENCE BETWEEN CRITERIA APPLIED TO AUSTRALIA AND NATO WITH REGARD TO THE STATUTORY REQUIREMENT FOR CONGRESSIONAL REVIEW OF ALL SALES OVER DOLS 25 MILLION, AND SALES OF MAJOR DEFENSE EQUIPMENT OVER DOLS 7 MILLION, WHICH APPLIES UNIFORMLY TO ALL FOREIGN COUNTRIES, AND SUCH SALES TO NATO AND AUSTRALIA ARE SUBJECTED TO IDENTICAL CLEARANCE PROCEDURES WITHIN EXECUTIVE BRANCH PRIOR TO SUBMISSION TO THE CONGRESS.

5. AUSTRALIAN IMPRESSION THAT NATO HAS PREFERRED STATUS ON OFFSET ISSUES DOES NOT APPEAR TO HAVE SUBSTANTIAL BASIS IN LEGISLATION. IN CONNECTION WITH OFFSET, THE EXECUTIVE BRANCH IS CONSIDERING WHETHER TO PROPOSE AGAIN TO THE CONGRESS THE ELIMINATION (OR MODIFICATION) BY THE CONGRESS OF THE "SPECIALITY METALS" PROVISIONS FROM THE FY 1978 DOD APPROPRIATION ACT. THIS WOULD APPLY TO ALL OFFSET AGREEMENTS INCLUDING THOSE WITH THE GOA. WE REALIZE THIS WOULD

BE MOST BENEFICIAL IN OBTAINING INCREASED AUSTRALIAN
INDUSTRIAL PARTICIPATION.

6. AS A PRACTICAL MATTER, PROVISIONS OF SECTION 21(E)(1)
(A) HAVE REQUIRED THE COLLECTION FROM SOME NATO PARTNERS
OF FMS CHARGES FROM WHICH THEY HAD BEEN PREVIOUSLY EXEMPT-
ED FOR VARIOUS HISTORICAL REASONS. THUS, NET EFFECT TO

DATE HAS BEEN TO BRING NATO TO PARITY WITH OTHERCUSTOMERS,
RATHER THAN PREFERENTIAL TREATMENT.

7. THE SECRETARY OF STATE IS REQUIRED TO REPORT TO THE
CONGRESS BY NEXT JUNE 30 RECOMMENDATIONS FOR AMENDMENTS
TO THE ARMS EXPORT CONTROL PROVISIONS OF THE 1976 ACT
(SECTION 218). THE DESIRABILITY OF REQUESTING CONGRESS TO
MODIFY THE PRESENT EXCEPTIONS HAS ALSO BEEN RAISED AS A
QUESTION TO BE ADDRESSED IN THAT CONNECTION, PARTICULARLY
UNCLASSIFIED

UNCLASSIFIED

PAGE 04 STATE 037527

WITH REGARD TO SALES TO AUSTRALIA, NEW ZEALAND AND JAPAN.

HARTMAN

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: MILITARY EQUIPMENT, MILITARY SALES
Control Number: n/a
Copy: SINGLE
Sent Date: 18-Feb-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977STATE037527
Document Source: CORE
Document Unique ID: 00
Drafter: SWINSHIP:RS
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770058-1127
Format: TEL
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19770226/aaaaaxga.tel
Line Count: 142
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 2f927cc4-c288-dd11-92da-001cc4696bcc
Office: ORIGIN PM
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 CANBERRA 9013
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 03-Dec-2004 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 3279427
Secure: OPEN
Status: NATIVE
Subject: AUSTRALIAN STATUS UNDER FMS
TAGS: MASS, AS, US
To: CANBERRA
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/2f927cc4-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009